

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH CRACCO,

Plaintiff,

14-cv-8235 (PAC)

- against -

DECLARATION OF
JAMES M. MALONEY

THE CITY OF NEW YORK, Police Officer
JONATHAN CORREA, Shield 7869, Transit Division
District 4, Police Officer JOHN DOE (a fictitious name),
and CYRUS R. VANCE, JR., in his official capacity as
District Attorney for the County of New York,

Defendants.

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James M. Maloney, an attorney at law admitted to practice before this Honorable Court,
declares under penalty of perjury as follows:

1. I submit this Declaration in support of the plaintiff's Rule 56 motion for partial
summary judgment in connection with the Ninth Cause of Action as pleaded in the Amended
Complaint (Document 9).¹

2. All statements made herein are based on my own personal knowledge.

3. On or about March 18, 2014, the plaintiff in this case, Mr. Cracco, retained me as his
criminal defense counsel in defense of the criminal matter that subsequently gave rise to this civil
action.

4. Attached hereto as Exhibit 1 is a true copy of the Misdemeanor Complaint in the
criminal matter that subsequently gave rise to this civil action, that document being the same as
Exhibit A to the Amended Complaint herein (Document 9-1).

¹All references to "Document [number]" are to documents previously filed herein as identified
numerically on the electronic docket sheet.

5. Attached hereto as Exhibit 2 is a true copy of the Affidavit of Jared Sippel, that document being the same as Exhibit B to Amended Complaint herein (Document 9-2), and which was filed by me and served on CYRUS R. VANCE, JR. in the criminal matter that subsequently gave rise to this civil action.

6. Attached hereto as Exhibit 3 is a true copy of an excerpt from the transcript of the May 11, 2016, deposition of Jared Sippel in this matter, at which I was present, said excerpt consisting of the cover page and pages 14-16 thereof.

7. Attached hereto as Exhibit 4 is a true copy of an excerpt from the transcript of the May 11, 2016, deposition of the plaintiff in this matter, at which I was present, said excerpt consisting of the cover page and pages 50-62 thereof.

8. Attached hereto as Exhibit 5 is a true copy of an Affidavit submitted by CYRUS R. VANCE, JR. in opposition to my motion to dismiss the complaint in the criminal matter that subsequently gave rise to this civil action, and which is identical to pages 9-13 of Exhibit D to Amended Complaint herein (Document 9-1) except that Document 9-1 contains handwritten notes made by me on my only copy before filing the Amended Complaint, whereas Exhibit 5 hereto is a “clean” copy of the same document produced by Defendant CYRUS R. VANCE, JR. in discovery in this litigation.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 21, 2017
Port Washington, New York

_____/s_____
James M. Maloney (JM-5297)

TO: all parties/counsel via ECF